

LEGAL NOTICE

Summary of Proposed Rulemakings

PUBLIC NOTICE OF INTENT TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES

The following agencies of the state of Idaho have published the complete text and all related, pertinent information concerning their intent to change or make the following rules in the new issue of the state Administrative Bulletin.

IDAPA 01 - BOARD OF ACCOUNTANCY **PO Box 83720, Boise, ID 83720-0002**

01-0101-0501, *Idaho Accountancy Rules.* Updates incorporations by reference.

IDAPA 02 - DEPARTMENT OF AGRICULTURE **PO Box 790, Boise, ID 83701-0790**

02-0303-0501, *Rules Governing Pesticide and Chemigation Use and Application.* Increases fee for annual pesticide registration to \$160 to fund pesticide Container Recycling Program.

02-0420-0501, *Rules Governing Brucellosis.* Updates incorporations by reference; clarifies calfhood vaccination; updates vaccination protocol for imported adult cattle.

02-0421-0501, *Rules Governing the Importation of Animals.* Updates incorporations by reference; clarifies importation requirements for cattle not vaccinated for brucellosis; adds additional testing requirements for dairy cattle entering Idaho.

02-0424-0501, *Rules Governing Tuberculosis.* Updates incorporations by reference; clarifies identification requirements for tuberculosis reactors.

****02-0427-0501, *Rules Governing Deleterious Exotic Animals.*** Defines exotic hybrids; adds provisions for permit revocation, record keeping, annual inventories, and reporting; adds additional species to the list of deleterious exotic animals.

****02-0429-0501, *Rules Governing Fur Farms.*** New chapter sets requirements for classifying a facility as an agricultural fur farm; allows differentiation between agricultural fur farms and captive wildlife facilities or fur bearing animals kept as pets.

02-0617-0501, *Rules Governing the Disposal of Cull Onions and Potatoes.* Standardizes language relating to cull disposal methods.

02-0626-0501, *Rules Governing Seed Potato Crop Management Areas.* Defines geographical boundaries for a new Seed Potato Crop Management Area in Fremont County.

IDAPA 07 - DIVISION OF BUILDING SAFETY **1090 E. Watertower St., Meridian, ID 83642**

07-0101-0501, *Rules Governing Electrical Inspection Tags.* Clarifies that industrial accounts must designate a supervising master electrician.

07-0102-0501, *Rules Governing Fees for Electrical Inspections.* Establishes a \$10 "small-work" permit and inspection fee for jobs under \$200 with no change in service connection.

07-0103-0403, Rules of Electrical Licensing and Registration - General. Changes journeyman to master electrician and clarifies master electrician qualifications and duties.

07.01.04 - Rules Governing Electrical Specialty Licensing.

07-0104-0501, Increases the number of effluent pumps that serve family installations that a licensee in the well driller/pump installer category may install or work on under certain conditions.

07-0104-0502, Adds communications installations to the Limited Energy Electrical License.

07-0104-0503, Clarifies that specialty electrical contractors are required to have a supervising specialty journeyman to countersign while an electrical contractor must have a supervising master electrician.

07.03.01 - Rules of Building Safety – General.

07-0301-0501, Chapter repeal.

07-0301-0502, Chapter rewrite consolidates six existing building chapters (see below) and increases fees for processing and issuance of modular building insignia tags to out-of-state manufacturers to \$100.

07-0302-0501, Rules of the Idaho Building Code Board. Chapter repeal.

07-0303-0501, Rules Governing Modular Buildings. Chapter repeal.

07-0305-0501, Rules Governing Manufactured Homes. Chapter repeal.

07-0306-0501, Rules Governing the Use of the International Building Code. Chapter repeal.

07-0308-0501, Rules Governing Commercial Coaches. Chapter repeal.

07-0501-0501, Rules of the Public Works Contractors License Board. Allows public works contractors to qualify for licensing class upgrades by demonstrating work experience; eliminates the use of indemnification by applicants to satisfy minimum financial requirements for licensure.

07-0701-0502, Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems. Establishes criteria for issuance of a specialty journeyman certificate of competency to include approved educational programs and on-the-job experience.

IDAPA 08 - DEPARTMENT OF EDUCATION

PO Box 83720, Boise, ID 83720-0027

****08-0203-0506, Rules Governing Thoroughness.** Increases math and science credits requirement for high school graduation; establishes middle school requirements and requires a cumulative C average in required courses.

IDAPA 11 – IDAHO STATE POLICE

PO Box 700, Meridian, ID 83680-0700

11-1003-0501, Rules Governing the Sex Offender Registry. Adds required sections; authorizes link from the State's site to the National Sex Offender Registry Internet site; changes sex offender registration forms.

IDAPA 12 – DEPARTMENT OF FINANCE

PO Box 83720 Boise, ID 83720-0031

12-0108-0501, Rules Pursuant to the Uniform Securities Act. Allows issuers with less than 1 year of operations to file reviewed financial statements until the end of the first fiscal year; conforms to disqualifications put forth by federal law; requires individuals to register as an issuer agent, unless exempt, if paid for certain activities; a broker-dealer or salesman, registered elsewhere, must register in Idaho; removes "by order" from renewal/application provision; administrator may defer effective date of registration of an investment adviser or his representative until 45th day after filing amendment to complete application.

IDAPA 13 – DEPARTMENT OF FISH AND GAME

PO Box 25, Boise, ID 83707

13-0104-0501, Rules Governing Licensing. Broadens military rain check and refund rule to include all military deployments and removes reference to a specific year.

13-0108-0501, Rules Governing the Taking of Big Game. Increases eligibility for left-over moose permits; allows use of round ball or conical lead bullets in traditional muzzleloader hunts; requires applicants for outfitter allocated controlled hunts to have a written agreement before submitting a controlled hunt application; develops application and drawing criteria, and marketing procedures for controlled hunt tags; grants priority to military personnel

returning from active duty for emergency depredation hunts.

13-0110-0501, Rules Governing the Importation, Possession, Release, Sale or Salvage of Wildlife. Addresses requirements and specifications for possessing or raising wildlife for medical research; standardizes terminology; clarifies requirement for an importation permit and updates allowed species importation list; sets bird disease and bird marking standards for shooting preserves.

13-0117-0501, Rules Governing the Use of Bait for Taking Big Game Animals. Allows bear baiting 1 week prior to season opening in several wilderness areas.

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

PO Box 83720, Boise, ID 83720-0036

****16-0224-0501, Clandestine Drug Laboratory Cleanup.** New chapter implements new law by establishing processes and standards for clandestine drug laboratory cleanup.

16-0301-0501, Eligibility for Health Care Assistance for Families and Children. Removes asset transfer penalty for any Family Medicaid Program; changes self-employment income calculation; excludes Idaho Tribal TANF from Family Medicaid Program eligibility; changes time period to request a hearing; removes asset requirement and minimum income requirement for CHIP B and the Children's Access Card to allow more uninsured children to be eligible.

16-0304-0501, Rules Governing the Food Stamp Program in Idaho. Clarifies language and brings rule into compliance with federal law; extends certification period for families with no income to 6 months; excludes grants from HUD's Family Self Sufficiency Initiative per federal law.

16.03.05 - Rules Governing Eligibility for Aid to the Aged, Blind, and Disabled (AABD).

16-0305-0502, Explains uses and limitations of revocable trusts and clarifies the description of and consideration of annuities and life estates when determining eligibility.

16-0305-0503, Conforms to federal law changes on asset definitions and criteria; establishes guidelines for required Medicare Part D Prescription Drug Program for certain low income applicants.

16-0309-0503, Rules Governing the Medical Assistance Program. Requires annual review of reimbursement rates with Medicaid mental health and developmental disability providers; identifies how rate comparisons with other state Medicaid programs will be conducted, how costs of Medicaid service providers of mental health and developmental disabilities will be obtained and evaluated, current access to services, and methods used to compile an annual report.

16.03.19 - Rules Governing Certified Family Homes.

****16-0319-0501,** Chapter repeal.

****16-0319-0502,** Chapter rewrite conforms to statutory changes that makes rule more appropriate for a family home rather than large facility.

16.03.22 - Rules for Licensed Residential or Assisted Living Facilities in Idaho.

****16-0322-0501,** Chapter repeal.

****16-0322-0502,** Chapter rewrite conforms to statutory changes and incorporates changes negotiated with the industry.

16-0503-0501, Rules Governing Contested Case Proceedings and Declaratory Rulings. Clarifies when an appeal is to be filed and that a hearing officer must dismiss an untimely appeal; and requires issuance of a proposed order of default if someone fails to appear for a hearing.

16-0602-0501, Rules Governing Standards for Child Care Licensing. Increases maximum length of time allowed between on-site licensing visit requirement to 12 months for foster homes, residential care facilities, children agencies and other programs; does not change other monitoring visits.

IDAPA 17 – IDAHO INDUSTRIAL COMMISSION

PO Box 83720, Boise, ID 83720-0041

****17-0208-0501, Miscellaneous Provisions.** Proposes using the Resource-Based Relative Value Scale and the

Relative Value Unit assigned for all medical services with a Physicians' Current Procedural Terminology code and a conversion factor for various categories of CPT coded services; deletes obsolete language. Comment by: 11/1/05.

IDAPA 20 – DEPARTMENT OF LANDS

PO Box 83720, Boise, ID 83720-0050

****20-0302-0502, Rules Governing Exploration and Surface Mining in Idaho.** Establishes rules for permanent closure of cyanidation facilities and performance bond requirements for permanent closure plans; allows operators of cyanidation facilities to apply to file permanent closure bonds in phases; includes requirements for nonpoint source control and best management practices to protect groundwater and surface water; allows director to request a geotechnical analysis and report for pit walls; deletes statutory language and replaces it with citations to Idaho Code.

IDAPA 22 – BOARD OF MEDICINE

PO Box 83720, Boise, ID 83720-0058

22-0101-0501, Rules of the Board of Medicine for Licensure to Practice Medicine and Surgery and Osteopathic Surgery in Idaho. Removes outdated language and references; removes language and time periods related to old state examinations; adds new volunteer, zero-fee license; adds and clarifies grounds for discipline; and eliminates outdated state examination fee.

22-0105-0501, Rules Governing Licensure of Physical Therapists and Physical Therapist Assistants. Conforms to statutory changes; provides for and defines "physical therapy licensure board"; removes language referencing advisory committee; adds continuing education requirements and requires proof of completion of CE requirements for renewal of active licenses.

22-0111-0501, Rules for the Licensure of Respiratory Therapists and Permitting of Polysomnographers in Idaho. Updates and clarifies rules and allows for proration of licensure application or temporary permit fees.

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

1109 Main St., Boise, ID 83702

24-0101-0501, Rules of the Idaho Board of Architectural Examiners. Updates incorporation by reference and contact information; clarifies examination process; requires exams to be completed within a 5-year period.

24-0301-0501, Rules of the State Board of Chiropractic Physicians. Updates contact information; defines and sets standard for athletic trainer; provides for supervision of athletic trainers; sets deadline for appeals on reviews conducted by peer review committee.

24-0501-0501, Rules of the Board of Drinking Water and Wastewater Professionals. Updates contact information; reduces endorsement, renewal, and original license fees; clarifies requirements for licensure, continuing education, and reinstatement or renewal of licenses for operator-in-training, backflow assembly tester, and wastewater land application.

24-0601-0501, Rules Governing the Idaho Board of Hearing Aid Dealers and Fitters. Chapter repeal.

24-0801-0501, Rules of the State Board of Morticians. Updates contact information; defines funeral establishment and resident trainee; changes meeting criteria and examination dates; includes funeral director in application process; defines standard for pre-need trust account; clarifies minimum standards for funeral establishments; expands and clarifies responsibilities for record keeping; corrects language in fee section.

24-1101-0501, Rules of the State Board of Podiatry. Updates incorporations by reference and board contact information; amends podiatric residency requirements; changes exam dates; requires official certification of exam for licensure by endorsement; adds scope of practice.

24-1401-0501, Rules of the State Board of Social Work Examiners. Updates contact information; changes requirements for group supervision and for social work supervisor registration.

24-1501-0501, Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists. Adds supervisory and continuing education requirements; increases number of supervisees; adds a deadline for application review; and adds an administrative fee for exam.

24-1801-0502, Rules of the Real Estate Appraiser Board. Updates incorporation by reference and board contact information; defines quorum for voting purposes; removes “certification” from licensing fee schedule; amends eligibility for exam requirements and licensure requirements; adds registered trainee real estate appraiser classification; amends qualifications criteria for certified residential and certified general real estate appraisers.

24-1901-0501, Rules of the Board of Examiners of Residential Care Facility Administrators. Updates contact information; revises qualifications for licensure; changes educational and training and continuing education course approval process; and increases annual license renewal fee.

24-2101-0501, Rules Governing the Idaho State Contractors Board. New chapter includes contact information, definitions, board duties, application requirements, and registration and renewal fees.

24-2201-0501, Rules Governing the Idaho Liquefied Petroleum Gas Safety Board. New chapter includes contact information, board duties, definitions, application and licensure requirements, license and renewal fees, required education and experience, exam requirements, facility licensure, and discipline.

24-2301-0501, Rules Governing the Idaho Board of Speech and Hearing Services. New chapter includes contact information, definitions, board duties, application requirements, licensure and renewal fees, exam and testing requirements, contracting, and continuing education requirements.

IDAPA 26 – DEPARTMENT OF PARKS AND RECREATION

PO Box 83720, Boise, ID 83720-0065

26-0120-0501, Rules Governing Administration of Park and Recreation Areas and Facilities. Adds and expands definitions; changes campsite and facility fees; clarifies park and facility operational provisions.

26-0131-0501, Rules Governing Administration of Idaho Department of Parks and Recreation State and Federal Grant Funds. Clarifies existing terminologies; removes outdated definitions; eliminates obsolete references.

26-0137-0501, Rules Governing Test Procedures and Instruments for Noise Abatement of Off Highway Vehicles. Changes specifications that define “All Terrain Vehicle” (ATV).

IDAPA 27 – BOARD OF PHARMACY

PO Box 83720, Boise, ID 83720-0067

27.01.01 - Rules of the Idaho Board of Pharmacy.

27-0101-0501, Clarifies requirements and outlines the types of positive identification that are required for delivery of controlled substances; adds requirement that pharmacy prescription record reflect the means of positive identification used.

27-0101-0502, Eliminates reference to drug product selection for Medicaid patients to comply with Medicaid law.

IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION

PO Box 83720, Boise, ID 83720-0074

31-1101-0501, Safety and Accident Reporting Rules for Public Utilities Regulated by the Idaho Public Utilities Commission. Updates CFR incorporation by reference.

****31-2101-0402, Customer Relations Rules for Gas, Electric and Water Public Utilities Regulated by the Idaho Public Utilities Commission.** Changes contents of notices given to customers by utilities before terminating service during winter moratorium; amends eligibility requirements and operation of the winter moratorium; expands moratorium eligibility to households receiving financial assistance through LIHEAP; prohibits disconnection on weekends or holidays or any day immediately preceding a holiday and moves termination threshold on Friday to 12 noon; lists required contents of the annual summary of rules and requires PUC to provide utilities with a “model” of the annual summary of rules including a Spanish language model.

31-7103-0501, Railroad Safety/Sanitation Rules. Incorporates by reference new amendments to the federal hazardous materials regulations regarding the transport of HMRs.

IDAPA 33 – REAL ESTATE COMMISSION
PO Box 83720, Boise, ID 83720

33.01.01 - Rules of the Idaho Real Estate Commission.

****33-0101-0501**, Removes rule text that is now in statute.

****33-0101-0502**, Reduces licensing fees for licensed individuals and business entities per licensing period.

IDAPA 35 – STATE TAX COMMISSION
PO Box 36, Boise, ID 83722-0410

35.01.01 - Income Tax Administrative Rules.

35-0101-0501, Updates incorporation by reference; clarifies LLCs and members will be treated according to federal classification; adds table for 2005 income tax brackets and rates; adds new addback for state and local taxes deducted by individuals as itemized deductions; allows deduction for taxpayers who restore income under the federal claim of right and claimed the federal credit; changes how nonresident reports gain or loss from the sale or disposition of a partnership interest or stock in an S corporation; clarifies that unity can be established under any one of the judicially acceptable tests; provides exceptions that income producing activity for purposes of the sales factor does not include transactions and activities performed on behalf of the taxpayer; establishes exception that alternative apportionment may be required to represent the extent of the taxpayer's business activity in Idaho; changes due date for paying withholding for employers who are farmers.

35-0101-0502, Addresses qualifying entities and what investment in securities and activities incident thereto includes.

35-0101-0503, Adds to the list of priority of credits; adds rules to implement the Idaho Corporate Headquarters Incentive Act of 2005 and the Idaho Small Employer Incentive Act.

35.01.02 - Idaho Sales and Use Tax Administrative Rules.

35-0102-0501, Changes sales tax rate back to 5%; reduces amusement device fee to \$35.

35-0102-0502, Changes conform to federal law; sales of rafting trips aren't taxable if they occur on navigable waters unless courts find differently; changes sales tax rate back to 5%.

35-0102-0503, Allows for issuance of temporary sales tax permits; adds rule for construction equipment.

35.01.03 - Idaho Property Tax Administrative Rules.

35-0103-0501, Updates procedures for calculation of the county weighted average forestland levy.

35-0103-0503, Updates incorporations by reference; clarifies assessment of land for the rural speculative homesite exemption; improves equalization of manufactured homes; requires submission of exempt land values; clarifies exemption of homes on jointly owned land and exempt status of personal property; excludes new construction in annexed areas from the annexation value; modifies date for county clerks to submit notices of compliance.

35-0105-0501, Idaho Motor Fuels Tax Administrative Rules. Defines "Indian-owned retail outlet"; adds "delivered to an Indian-owned retail outlet tax not collected" to disbursements list and limits deduction to 10% of the total volume; only taxable and nontaxable fuel sales can be included in calculation of fuels tax bad debt when partial payments are made and sets statute of limitations for fuels tax bad debt claims; requires licensed fuel distributors using credit card receipts as sales invoices to comply with invoice documentation requirements; removes "federal government" from updated list of consumers who can use low-sulfur dyed diesel fuel; adds language for standard power take-off (PTO) and auxiliary engine allowance for concrete pumping trucks; corrects Idaho Code references and terminology.

35-0110-0501, Idaho Cigarette and Tobacco Products Tax Administrative Rules. Prohibits distribution of free or below cost tobacco products to sellers; taxes must be reported on the return for the month in which the stamps are affixed; first distributor is liable for tax and must indicate the tax was paid on the invoice.

35-0111-0501, Idaho Unclaimed Property Administrative Rules. Updates contact information; requires holders to report and remit total dividends and stock certificate or its electronic equivalent if under \$50; adds claimant has burden of proof to establish claim and must contact persons and search out documents relating to the claim.

35-0201-0501, Tax Commission Rules Governing Administration and Enforcement. Defines pay, paid, payable or payment and excludes drafts made on foreign banks; allows Commission to reject certain types of payments; establishes formula for calculating the yearly interest rate applied to deficiencies of tax and refunds; changes deposit requirement when appealing a decision; allows Commission to exchange information related to public works

contracts with Division of Building Safety Administrator.

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

PO Box 7129, Boise, ID 83707-1129

39-0402-0501, Rules Governing Marking of Obstructions to Air Flight. Redefines “airport hazard” to be consistent with Federal Code; increases structure height considered a hazard to safe airflight to 200 feet and requires notice of construction of such structure; reduces minimum size for marker balls to 36 inches.

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

1410 N. Hilton, Boise, ID 83706-1255

****58-0101-0508, Rules for the Control of Air Pollution in Idaho.** Addresses process for permitting air quality minor sources. Comment by: 11/4/05.

IDAPA 59 – PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

PO Box 83720, Boise, ID 83720-0078

59-0106-0501, Retirement Rules of the Public Employee Retirement System of Idaho (PERSI). Increases contribution rates for funding the unused sick leave account for public school employees; clarifies the retirement election requirements; and changes terminology to more accurately describe the effect of reemployment on retirement benefits.

Scheduled Negotiated Rulemaking Public Meeting:

Dept of Environmental Quality

58-0112-0501, Rules for Administration of Water Pollution Control Loans

Scheduled Public Hearings on Proclamations:

Dept of Fish and Game

13-0108-0501P, Rules Governing the Taking of Big Game Animals in the State of Idaho

13-0109-0501P, Rules Governing the Taking of Game Birds in the State of Idaho

**The Deadline For Submitting Written Comments For These Rulemakings
Is October 26, 2005, Unless Otherwise Listed.**

****Rulemakings with Scheduled Public Hearings.**

Please refer to the Idaho Administrative Bulletin, **October 5, 2005, Volume 05-10** for notices and text of all rulemakings, public hearing and meeting schedules, Governor’s executive orders, and agency contact information.

Issues of the Idaho Administrative Bulletin can be viewed at the county law libraries or online.

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